

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TIMOTHY PATTERSON,

Defendant-Appellant.

UNPUBLISHED

October 28, 2003

No. 240839

Wayne Circuit Court

LC No. 01-000336

Before: Bandstra, P.J., and Hoekstra and Borrello, JJ.

MEMORANDUM.

Following a nonjury trial, defendant was convicted of felonious assault, MCL 750.82, felon in possession of a firearm, MCL 750.224f(2), possession of a firearm during the commission of a felony, MCL 750.227b, and domestic assault, MCL 750.81(2). He was sentenced to concurrent terms of twenty-three months to four years for the felonious assault conviction and twenty-three months to five years for the felon in possession conviction, to be served consecutively to the mandatory two-year sentence for felony-firearm; he was given a suspended sentence for the domestic assault conviction. Defendant appeals his convictions as of right and we affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's sole claim on appeal is that the evidence was insufficient to support the verdict. Defendant does not challenge the sufficiency of the evidence as it relates to the elements of the offenses, which was in fact sufficient to prove the elements of the crimes beyond a reasonable doubt.¹ Rather, defendant contends that the victim's testimony was too incredible to be believed.

¹ Evidence that defendant pointed a weapon at the victim was sufficient to prove the elements of both felonious assault and felony-firearm. *People v Avant*, 235 Mich App 499, 505-506; 597 NW2d 864 (1999). Evidence that defendant committed the assault against a woman with whom he had children in common was sufficient to prove domestic assault. MCL 750.81(2). Evidence that defendant was in possession of a weapon less than five years after being convicted of a controlled substance offense was sufficient to prove felon in possession of a firearm. MCL 750.224f(2), (6)(ii).

Because the trial court is in the best position to judge credibility, this Court will not substitute its judgment for that of the trial court but will defer to the trial court's resolution of factual issues that involve the credibility of witnesses. *People v Cartwright*, 454 Mich 550, 555; 563 NW2d 208 (1997); *People v Martin*, 199 Mich App 124, 125; 501 NW2d 198 (1993). Despite some inconsistent testimony as to the specific location from which the gun was recovered and evidence that the victim's father had pressured her to proceed with the prosecution, the trial court specifically found the victim's testimony more credible than that of defendant. Because that testimony was sufficient to prove each element of the crimes charged, we find no basis for relief.

We affirm.

/s/ Richard A. Bandstra

/s/ Joel P. Hoekstra

/s/ Stephen L. Borrello